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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER LAFORGIA, CHRISTIAN A	
			ART UNIT 2139	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,735	<b>Applicant(s)</b> TURGEMAN ET AL.	
	<b>Examiner</b> Christian LaForgia	<b>Art Unit</b> 2139	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-20 and 187-194 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-20 and 187-194 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/16/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 April 2008 has been entered.
2. Claims 1, 2, 5-20 and 187-194 have been presented for examination.
3. Claims 3, 4, and 21-186 have been cancelled as per Applicant's request.

### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 16 June 2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1, 2, 5-20, and 191 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The amendments to independent claims 1 and 10 render the claims generally narrative and indefinite. The amendments appear to convolute the claims making it difficult for one of ordinary skill in the art to determine the intended scope of the invention.

7. Claims 1, 2, 5-20, and 191 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: transmitting information from the at least one gateway to the at least one server so that the server can make the spam classification.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1, 2, 5-20, 187, and 191 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0199095 to Bandini et al., hereinafter Bandini.

11. As per claims 1 and 10, Bandini teaches a method for combating spam comprising:

classifying a message at least partially by evaluating at least one message parameter, using at least one stored parameter template, thereby providing a spam classification (Figure 2 [blocks 54, 56], paragraphs 0021, 0024, 0030, i.e. compare the received e-mail to the SPAM database and classify as SPAM, clean or borderline), said using comprising using said at least one stored parameter template at at least one gateway (Figure 1 [block 46]) and said providing comprising providing said spam classification at at least one server (Figure 1 [element 37], paragraphs 0021, 0024, 0030, i.e. compare the received e-mail to the SPAM database and classify as SPAM, clean or borderline), said at least one server being operative to periodically

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provide updated parameter templates to said at least one gateway (Figure 4, paragraphs 0034-0036, i.e. updating the SPAM database **37**), said at least one server receiving evaluation outputs from said at least one gateway (paragraph 0036, i.e. e-mail relay providing indications of SPAM to the database) and providing said spam classification to said at least one gateway (Figure 1 [element 37], paragraphs 0021, 0024, 0030, i.e. compare the received e-mail to the SPAM database for classification as SPAM, clean or borderline); and

handling said message based on said spam classification (Figure 2 [blocks 58,59, 60], paragraph 0021).

12. Regarding claim 2, Bandini teaches wherein said at least one stored parameter template comprises a parameter template which changes over time (paragraphs 0026, 0039, i.e. attribute is the message which changes with each transmission, attribute is time of transmission).

13. With regards to claim 5, Bandini teaches wherein said classifying also comprises:

encrypting at least part of said evaluation outputs by employing a non-reversible encryption so as to generate encrypted information (paragraph 0030, i.e. hash); and

transmitting at least said encrypted information to said at least one server (paragraph 0030).

14. Concerning claim 6, Bandini teaches wherein said transmitting comprises transmitting information of a length limited to a predefined threshold (paragraph 0030).

15. Regarding claim 7, Bandini teaches wherein said handling comprises at least one of:

forwarding said message to an addressee of said message (Figure 2 [block 58]);  
storing said message in a predefined storage area (Figure 2 [blocks 59, 60]);  
rejecting said message (Figure 2 [block 60]); and  
delaying said message for a period of time and thereafter re-classifying said message  
(Figure 2 [block 59]).

16. Regarding claim 8, Bandini teaches wherein said message comprises an e-mail  
(paragraphs 0002, 0004).

17. Regarding claim 9, Bandini teaches wherein said classifying also comprises at least one  
of:

analyzing a match among network references in said message (paragraph 0027, i.e.  
sender fields);

sending information to a server and receiving classification data based on said  
information (paragraphs 0012, 0040);

employing classification data received from a server (paragraphs 0012, 0040); and

employing stored classification data (paragraph 0027, i.e. index in database).

18. Regarding claim 11, Bandini teaches wherein said classifying is at least partially  
responsive to similarities between plural messages among said multiple messages, which  
similarities are reflected in said at least one message parameter (paragraphs 0026-0032, i.e.

storing an index of sender fields of records in the database and comparing the sender of the message to aforementioned index).

19. Regarding claim 12, Bandini teaches wherein said classifying is at least partially responsive to similarities between plural messages among said multiple messages, which similarities are reflected in outputs of applying said at least one stored parameter template to said at least one message parameter (paragraphs 0026-0032).

20. Regarding claim 13, Bandini teaches wherein said classifying is at least partially responsive to similarities in multiple outputs of applying a single stored parameter template to said at least one message parameter in multiple messages (Figure 4, paragraphs 0035-0039).

21. Regarding claim 14, Bandini teaches wherein said classifying is at least partially responsive to the extent of similarities between plural messages among said multiple messages which similarities are reflected in said at least one message parameter (paragraphs 0026-0032, 0035-0039).

22. Regarding claim 15, Bandini teaches wherein said classifying is at least partially responsive to the extent of similarities between plural messages among said multiple messages which similarities are reflected in outputs of applying said at least one stored parameter template to said at least one message parameter (paragraphs 0026-0032).

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23. Regarding claim 16, Bandini teaches wherein said classifying is at least partially responsive to the extent of similarities in multiple outputs of applying a single stored parameter template to said at least one message parameter in multiple messages (paragraphs 0026-0032).

24. With regards to claim 17, Bandini teaches wherein said extent of similarities comprises a count of messages among said multiple messages which are similar (paragraphs 0035-0039).

25. Regarding claim 18, Bandini teaches wherein said classifying is at least partially responsive to similarities in outputs of applying stored parameter templates to said at least one message parameter in multiple messages, wherein a plurality of different stored parameter templates are individually applied to said at least one message parameter in said multiple messages, yielding a corresponding plurality of outputs indicating a corresponding plurality of similarities among said multiple messages (paragraphs 0026-0032, 0035-0039).

26. With regards to claim 19, Bandini teaches wherein said classifying also comprises aggregating individual similarities among said plurality of similarities (paragraphs 0026-0032).

27. Concerning claim 20, Bandini teaches wherein said aggregating individual similarities among said plurality of similarities comprises applying weights to said individual similarities (Figure 4, paragraph 0037).



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28. Regarding claim 187, Bandini teaches wherein said evaluating includes calculating a value based on said at least one message parameter (Figure 3 [steps 68, 70, 76], paragraphs 0021-0023).

29. As per claim 191, Bandini teaches a method for combating spam comprising:

classifying a message at least partially by evaluating at least one message parameter, using at least one stored parameter template, thereby providing a spam classification (Figure 2 [blocks 54, 56], paragraphs 0021, 0024, 0030, i.e. compare the received e-mail to the SPAM database and classify as SPAM, clean or borderline), said using at least one stored parameter template comprising using said at least one stored parameter template at at least one gateway (Figure 1 [block 46]) and said providing a spam classification comprising providing said spam classification at at least one server (Figure 1 [element 37], paragraphs 0021, 0024, 0030, i.e. compare the received e-mail to the SPAM database and classify as SPAM, clean or borderline), said at least one server receiving evaluation outputs from said at least one gateway (paragraphs 0034-0036, i.e. e-mail relay providing indications of SPAM to the database) and providing said spam classification to said at least one gateway (Figure 1 [element 37], paragraphs 0021, 0024, 0030, i.e. compare the received e-mail to the SPAM database for classification as SPAM, clean or borderline), said evaluating including calculating a value based on said at least one message parameter (Figure 3 [steps 68, 70, 76], paragraphs 0021-0023); and

handling said message based on said spam classification (Figure 2 [blocks 58,59, 60], paragraph 0021).

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30. Claim 193 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0260776 A1 to Starbuck et al., hereinafter Starbuck.

31. As per claim 193, Starbuck teaches a method for combating spam (title, abstract) comprising:

classifying a message at least partially by relating to an unsubscribe feature in the message, thereby providing a spam classification for said message (paragraph 0081, i.e. header lines for unsubscribing are useful to identify spam more readily); and

handling said message based on said spam classification (paragraphs 0007, 0078, 0084, i.e. Spam filters are used to block or allow messages to pass based on the criteria in the filter. Starbuck provides the example of blocking messages based on spam indicator, such as an image). The unsubscribe feature was not disclosed in provisional application no. 60/436,021, and therefore is not entitled to its filing date of 26 December 2002. The unsubscribe feature appears in provisional application no. 60/488,354 and is therefore afforded its earlier filing date of 17 July 2003.

32. Claim 194 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,691,156 B1 to Drummond et al., hereinafter Drummond.

33. As per claim 194, Drummond teaches a method for combating spam (Figure 2 [block 210]) comprising:

classifying a message at least partially by relating to a registration status of at least one registered address in said message, thereby providing a spam classification for said message

(Figures 2 [blocks 212n], 3 [steps 310, 326], column 4, line 52 to column 5, line 6, column 6, lines 10-60, i.e. checking if an e-mail address is on a pre-approved list of senders); and  
handling said message based on said spam classification (Figure 3 [steps 320, 324], column 6, lines 43-60, i.e. deleting the email or forwarding it on to the recipient).

***Claim Rejections - 35 USC § 103***

34. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

35. Claims 188 and 192 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0199095 to Bandini et al., hereinafter Bandini, in view of U.S. Patent No. 6,757,830 B1 to Tarbotton et al., hereinafter Tarbotton.

36. As per claims 188 and 192, Bandini teaches a method for combating spam comprising:  
categorizing incoming messages received at said at least one gateway into first, second and third categories (Figure 2 [blocks 54, 56], paragraphs 0021, 0026, 0039, i.e. compare the received e-mail to the SPAM database and classify as SPAM, clean or borderline);

providing spam classifications for incoming messages in at least said first and second categories (Figure 2 [blocks 54, 56], paragraphs 0021, 0026, 0039, i.e. classifying the message as either SPAM or clean);

not immediately providing a spam classification for incoming messages in said third category (Figure 2 [blocks 54, 56], paragraphs 0021, 0026, 0039, i.e. classifying the message as borderline);

handling said messages based on said spam classifications (Figure 2 [blocks 58,59, 60], paragraph 0021).

37. Bandini does not teach delaying said incoming messages in said third category for a period of time and thereafter re-classifying said messages based on classifications of incoming messages received during said period.

38. Trabotton discloses delaying received email messages for a predetermined amount of time so that a decision can be made with the most up-to-date anti-virus and anti-spamming signatures (Abstract, column 2, lines 1-34).

39. It would have been obvious to one having ordinary skill in the art at the time the invention was made to delay said incoming messages in said third category for a period of time and thereafter re-classifying said messages based on classifications of incoming messages received during said period, since Trabotton states at column 2, lines 24-30 that delaying the messages increases the likelihood that the tests for unwanted properties are current at the expiry of the delay period and will include counter-measures that were distributed during the delay period, thereby identifying problem e-mails before reaching the user.

40. Claim 189 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bandini in view of Starbuck.

41. Regarding claim 189, Bandini does not teach classifying said message at least partially by relating to an unsubscribe feature in the message, thereby providing said spam classification for said message.

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42. Starbuck teaches classifying said message at least partially by relating to an unsubscribe feature in the message, thereby providing said spam classification for said message (paragraph 0081, i.e. header lines for unsubscribing are useful to identify spam more readily).

43. It would have been obvious to one of ordinary skill in the art at the time the invention was made to classify said messages at least partially by relating to an unsubscribe feature in the message, since Starbuck states at paragraph 0081 that using unsubscribe information is useful in identifying spam more readily.

44. Claim 190 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bandini in view of Drummond.

45. Regarding claim 190, Bandini does not teach classifying said message at least partially by relating to a registration status of at least one registered address in said message, thereby providing said spam classification for said message.

46. Drummond teaches classifying said message at least partially by relating to a registration status of at least one registered address in said message, thereby providing said spam classification for said message (Figures 2 [blocks 212*n*], 3 [steps 310, 326], column 4, line 52 to column 5, line 6, column 6, lines 10-60, i.e. checking if an e-mail address is on a pre-approved list of senders).

47. It would have been obvious to one of ordinary skill in the art at the time the invention was made to classify the messages at least partially by relating to a registration status of at least one registered address in said message, thereby providing said spam classification for said

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message, since Drummond states at column 2, lines 17-19 that it provides a simple and effective way of restricting unsolicited e-mail messages.

### ***Conclusion***

48. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

49. The following patents are cited to further show the state of the art with respect to detecting SPAM, such as:

United States Patent No. 6,609,196 B1 to Dickinson, III et al., which is cited to show an e-mail firewall for filtering e-mail messages.

United States Patent No. 7,373,664 B2 to Kissel, which is cited to show protecting networks from e-mail worms and spam.

United States Patent No. 6,161,130 to Horvitz et al., which is cited to show detecting spam using a probabilistic classifier.

United States Patent No. 6,941,466 B2 to Mastrianni, which is cited to show detecting spam based on message semantics and the user's identity.

United States Patent No. 7,293,063 B1 to Sobel, which is cited to show using updated spam signatures to perform a secondary scan to improve spam detection.

United States Patent No. 7,272,853 B2 to Goodman et al., which is cited to show spam filtering using origination/destination features and lists.

United States Patent No. 6,732,157 B1 to Gordon et al., which is cited to show detecting spam.

United States Patent No. 6,266,692 B1 to Greenstein, which is cited to show blocking spam using a header-based password.

United States Patent No. 6,112,227 to Heiner, which is cited to show filtering spam based on the source of the email.

50. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian LaForgia whose telephone number is (571)272-3792. The examiner can normally be reached on Monday thru Thursday 7-5.

51. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

52. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian LaForgia/  
Primary Examiner, Art Unit 2139

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